IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.356 OF 2005
WITH
CIVIL APPLICATION NO.153 OF 2006
WITH
CONTEMPT PETITION NO.149 OF 2005

Suresh Maruti Shinde. ..Petitioner.

V/s.

Shri Amol B. Sulakhe, and Ors. ..Respondents.

Mr.I.M.Khairdi for petitioner.

Mr.Tejas Deshmukh for respondent No.1.

Mr.Abhijit Kulkarni for respondent No.2.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 12, 2007.

P.C. :

1. This order will dispose of both the contempt petitions.

2. Essentially two points were made on behalf of the petitioner. The first grievance was regarding non-compliance of the direction of reinstatement, in the first place issued by the School Tribunal and again by the Division Bench. The second grievance is regarding nonpayment of subsistence allowance payable in respect of the suspension period from 28th June, 2003 till the order of dismissal was passed on 5th

May, 2004 in terms of order of the Division Bench of this Court dated July 12, 2005.

3. In so far the first point is concerned, the grievance that order of reinstatement has not been complied in terms of the directions issued by the School Tribunal clearly overlooks that the matter was contested by the Management upto this Court by way of Letters Patent Appeal No. 50 of 2005. The said LPA was disposed of by agreed order invited by the parties on July 12, 2005. Soon thereafter, the petitioner came to be reinstated on 18th July, 2005. This fact is not disputed. If it is so, there is absolutely no case made out regarding wilful disobedience of the order of the School Tribunal or for that matter Division Bench of the High Court on the question of reinstatement of the petitioner.

4. In so far as the second grievance is concerned, indeed, the Management invited order from the Division Bench, which obligates the Management to pay subsistence allowance for the specified period within a period of two weeks from the date of the order dated July 12, 2005. However, as there was some confusion on account of previous order passed by the Division Bench in Writ Petition No.183 of 2005,

where statement was made on behalf of the State Government that the amount towards subsistence allowance could be paid by the department, the Management filed Review Petition before this Court. That Review Petition came to be withdrawn on 22/12/2005. As the Review Petition was withdrawn, the Management having realised about the necessity to pay the subsistence allowance in terms of clause(3) of the order dated July 12, 2005, offered that amount to the petitioner by 28th September, 2006. The fact that the said amount has been received by the petitioner is not in dispute. However, it may be noted that the petitioner has disputed the correctness of the quantum of this amount. It is not necessary for this Court to go into the said contention, as it is subject matter of some proceeding pending between the parties in that behalf. Suffice it to observe that the Management has substantially complied with the direction contained in clause (3) of the order dated 12th July, 2006. Viewed thus, it is not a case to initiate action for wilful disobedience of the order of the Court.

5. Accordingly, both these proceedings are dropped. Notice issued to the contemnors stands

discharged.

6. In view of this order, nothing survives in the civil application. The same is disposed of accordingly.